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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,332	07/11/2003	Robert P. Julius	NPP 3.0-005 DIV CIP	5274

530 7590 09/21/2006
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER

GEHMAN, BRYON P

ART UNIT PAPER NUMBER

3728

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Response to Rule 312 Communication	Application No.	Applicant(s)	
	10/618,332	JULIUS, ROBERT P.	
	Examiner	Art Unit	
	Bryon P. Gehman	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on 21 August 2006 under 37 CFR 1.312 has been considered, and has been:

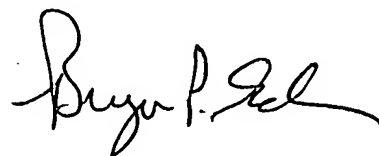
- a) ☐ entered.
- b) ☐ entered as directed to matters of form not affecting the scope of the invention.
- c) ☐ disapproved because the amendment was filed after the payment of the issue fee.

Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

- d) ☒ disapproved. See explanation below.
- e) ☐ entered in part. See explanation below.

Applicant's amendment to the specification will not be entered. It is improper to insert an "incorporation by reference" after the initial filing. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C.1980). See MPEP 201.06(c)

The status of the related applications has already been updated by the examiner.



Bryon P. Gehman
Primary Examiner
Art Unit: 3728